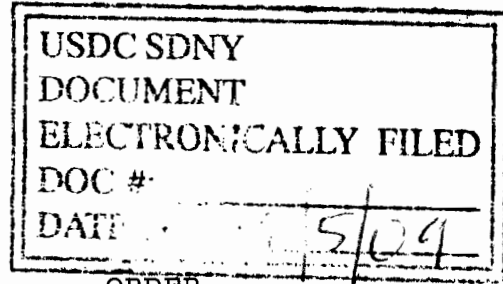


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



LUV N'CARE LTD. and ADMAR
INTERNATIONAL, INC.,

Plaintiffs,

- against -

WALGREEN CO.,

Defendant.

ORDER

08 Civ. 4457 (DC)


CHIN, District Judge

By letter dated May 27, 2009, defendant Walgreen Co. requests a pre-motion conference to discuss its filing of a motion to strike an expert report submitted by plaintiffs a week before the close of discovery. By letter dated June 1, 2009, plaintiffs assert that they submitted their expert report "in response and rebuttal to Walgreen's own eleventh-hour disclosure of an expert, Mr. Walter McCullough." By letter dated June 2, 2009, Walgreen reports that it "does not now and never has intended [sic] to call Mr. McCullough as a fact or an expert witness."

Under the circumstances, plaintiffs' "rebuttal" expert report is stricken. There is no need for a report responding to McCullough as an expert if McCullough will not be testifying in this case. It appears that much of this dispute arises from reports generated in a Texas litigation. Those reports are not before this Court and will not be allowed.

SO ORDERED.

Dated: New York, New York
June 5, 2009


DENNY CHIN

United States District Judge